

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 98-590-C - ORDER NO. 1999-225
MARCH 29, 1999

IN RE: Application of Network Telephone) ORDER
Corporation for a Certificate of Public) APPROVING
Convenience and Necessity to Provide Resold) CERTIFICATE
Local Exchange and Interexchange)
Telecommunications Services within the State)
of South Carolina.)

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Network Telephone Corporation ("Network" or "the Company") for authority to provide both resold local exchange and long distance interexchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §§ 58-9-280 and 58-9-520 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed Network to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Network complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Association ("SCTA"). Prior to the hearing, counsel for SCTC filed a Stipulation in

which Network stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Network provided written notice of its intent prior to the date of the intended service. Network also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Network agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to Network's Application provided the conditions contained in the Stipulation are met. At the hearing on Network's Application, the Stipulation was offered into evidence. The Stipulation is approved and attached hereto as Exhibit 1.

A hearing was commenced on March 10, 1999, at 12:00 p.m., in the Commission's Hearing Room. The Honorable Philip Bradley, Chairman, presided. Network was represented by John J. Pringle, Jr., Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Johnny Matthews, Chief Financial Officer of Network, appeared and offered testimony in support of Network's application. The record reveals that Network is a Florida corporation which is registered to conduct business in South Carolina as a foreign corporation with the South Carolina Secretary of State. According to Mr. Matthews, Network proposes to offer resold competitive local exchange services throughout the area served by BellSouth, as well as resold long distance interexchange telecommunication services on a statewide basis. Mr. Matthews discussed Network's services; its

managerial, technical, and financial resources to provide telecommunications services; marketing plans; and customer service resources.

Mr. Matthews explained that Network possesses the technical, financial, and managerial resources and abilities to provide interexchange and local exchange telecommunications services. Mr. Matthews stated that Network is presently certified in Alabama, Florida, Kentucky, Louisiana, Mississippi, Tennessee, and Georgia, and also testified that Network has applications for certification pending in several other states. Presently, Network has over 6500 lines under letters of authorization. Mr. Matthews stated that Network is concentrating its marketing on a regional basis in order to gain maximum economies of scale and that Network has chosen the southeast as the region with the most opportunity.

Mr. Matthews offered that Network's entry into the telecommunications industry in South Carolina will promote competition thereby resulting in the offering of higher quality services at lower prices. Mr. Matthews also testified that approval of Network's application would not adversely impact affordable local exchange service, and there is no evidence of record to suggest that the provision of local exchange service by Network will adversely affect local rates.

Mr. Matthews testified that the Company would operate in accordance with the Commission rules, regulations, guidelines and Commission Orders. Mr. Matthews also stated that Network would support universally available telephone service at affordable rates and that the provision of local service by Network would not adversely impact affordable local service. Mr. Matthews specifically stated that the services Network will

provide will meet the service standards of the Commission. Additionally, the record reveals descriptions of Network's services, operations and marketing procedures.

By its Application, Network requested waivers of the Commission requirements (1) of publishing a directory, (2) of maintaining its books and records in conformance with the Uniform System of Accounts, and (3) of any reporting requirements which are not applicable to competitive providers. The record shows that Network has committed to make arrangements for its customers to be published in the ILEC directories. With regard to the requested waiver on bookkeeping, Mr. Matthews testified that Network maintains its books and records on a nationwide basis according to GAAP (Generally Accepted Accounting Principles) and requested that the Commission grant a waiver of the requirement that the Company use the Uniform System of Accounts. Mr. Matthews explained that this waiver would avoid the necessity of the Company maintaining two sets of books.

After full consideration of the applicable law, the Company's application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law.

FINDINGS OF FACT

1. Network is organized as a corporation under the laws of the State of Florida and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. Network wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that Network possesses the technical, financial, and managerial resources sufficient to provide the service requested.

4. The Commission finds that Network's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997).

5. The Commission finds that Network will support universally available telephone service at affordable rates.

6. The Commission finds that Network will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by Network "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1997).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Network to provide competitive intrastate local exchange services in the areas of South Carolina served by BellSouth and to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission. Any proposal to provide local exchange service to rural service areas is not included in the instant grant of authority.

2. Network shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change

in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

3. The Commission adopts a rate design for Network for its interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Network shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. Network shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. If it has not already done so by the date of issuance of this Order Network shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Network is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Network shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Network changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Network shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Network shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on

a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Network shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

11. Network shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. By its Application, Network requested waivers from Commission requirements (1) of publishing a directory, (2) of maintaining its books and records in conformance with the Uniform System of Accounts, and (3) of any reporting requirements which are not applicable to competitive providers. The Commission finds the reasoning behind Network's requests for waivers reasonable and hereby grants waivers from publishing a directory and from maintaining books using the Uniform System of Accounts. With regard to the waiver of reporting requirements, the Commission will treat Network as

any other competitive local exchange provider and will require Network to file reports as required of other competitive local exchange providers. Further, Network is required to respond to information requests as from time to time may be propounded by the Staff or the Commission.

14. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Network to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordination at the Office of Information Resources of the South Carolina Budget and Control Board.

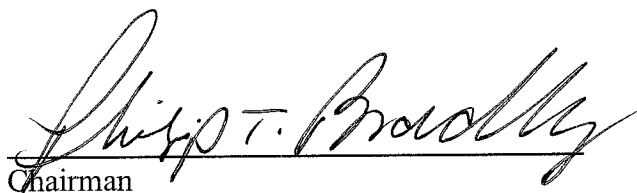
By this Order and prior to providing services within South Carolina, Network shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

MARCH 29, 1999

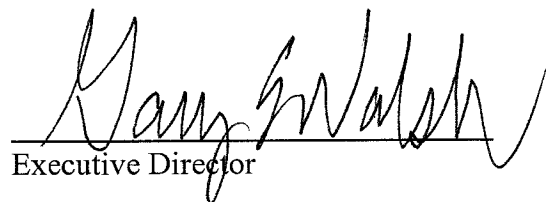
PAGE 10

15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS FOR INTEREXCHANGE COMPANIES AND AOS'S

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NO. 98-590-C - ORDER NO. 1999-225
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ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 98-590-C

Re: Application of Network Telephone Corporation for a Certificate)
of Public Convenience and Necessity to Provide Resold Local)
Exchange and Long Distance Interexchange Telecommunications) **STIPULATION**
Services in the State of South Carolina)
)
)

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Network Telephone Corporation ("Network") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Network's Application. SCTC and Network stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Network, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Network stipulates and agrees that any Certificate which may be granted will authorize Network to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Network stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Network stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Network provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Network acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Network stipulates and agrees that if, after Network gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Network will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Network acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained

herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

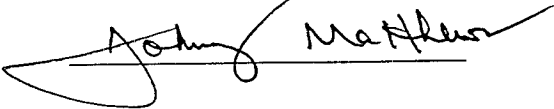
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Network agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.


9. Network hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 29th day of January, 1999.

Network Telephone Corporation

A handwritten signature in dark ink, appearing to read "John Matthew", written over a horizontal line.

South Carolina Telephone Coalition:

A handwritten signature in dark ink, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.

Margaret M. Fox

McNair Law Firm, P.A.

Post Office Box 11390

Columbia, South Carolina 29201

(803) 799-9800

Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A
South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company